

Title	Small Claims: Transfer of Judgment After Appeal (Repeal Code Civ. Proc., § 116.780(d))
Summary	The committee is proposing that the Judicial Council sponsor legislation to repeal the ten-day time-period before the small claims appeal and judgment can be transferred to the small claims court for enforcement proceedings. This delay period is no longer necessary now that the trial court system has been unified statewide, and it would allow enforcement proceedings to commence immediately.
Source	Civil and Small Claims Advisory Committee
Staff	Cara Vonk, 415-865-7669, cara.vonk@jud.ca.gov
Discussion	<p>Currently, Code of Civil Procedure section 116.780(d) provides a 10-day wait period after judgment in a small claims appeal before the appeal and judgment may be transferred to the small claims court in which the action was originally filed for enforcement proceedings. Judgment creditors may be frustrated because they cannot begin collection activity immediately after obtaining a judgment in their favor. A delay to allow for transfer of the case file is no longer necessary under our unified trial court system, which could be handled as an internal administrative matter.</p> <p>A proposal to amend Code of Civil Procedure section 116.780(d) has been urged by several small claims advisors because a delay to allow time to transfer the physical file is no longer necessary. Now that the trial courts are unified into one superior court, transfer of files between departments can be handled quickly and in some courts is now accomplished electronically.</p> <p>In 1993 the Judicial Council sponsored legislation to amend Code of Civil Procedure section 116.780(d) to allow the superior court to retain jurisdiction over a small claims case on appeal for 10 days before transferring the action back to municipal court for enforcement of the judgment. The November 8, 1993, Judicial Council report states at page 4, “The superior court would still have jurisdiction to address, for example, a motion to set aside a default by a party who had good cause for not appearing at the hearing on appeal.” The court also has authority to correct a clerical error or set aside a judgment on the ground of an incorrect or erroneous legal basis for the decision under the small claims court chapter, which includes the article governing “appeal.” (Code Civ. Proc., 116.725.)</p>

The committee would be especially interested in receiving comment on the following questions:

1. Can the proposal for immediate enforcement be achieved in the commentator's court, and if not, whether the proposal might result in client dissatisfaction if the file doesn't get to the right location immediately?
2. Instead of an outright repeal of subdivision (d), should it be amended to allow the court to set aside a default or make a correction for good cause consistent with the legislative intent of the 1993 amendment discussed above? For example, subdivision (d) could state: "For good cause, the judgment may be stayed for a reasonable period or may be recalled by the court on its own motion or on motion setting forth facts that justifies the granting of a motion."

The text of Code of Civil Procedure section 116.780(d) proposed for repeal is attached.

Attachment

Code of Civil Procedure section 116.780 would be amended to read:

116.780. Transfer of Judgment to Small Claims Court for Enforcement.

(a)—(c) ***

~~(d) Upon the expiration of 10 days following the completion of the appeal process, the superior court shall order the appeal and any judgment transferred to the small claims court in which the action was originally filed for purposes of enforcement and other proceedings under Article 8 (commencing with Section 116.810) of this chapter.~~